HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 910 of 2006 (MS)

Smt. Bhatwati Devi w/o Sri Ganga
Village Kaunta, Block Okhalkanda,
District Nainital ..... Petitioner

Versus

1. District Panchayat Raj Officer, Nainital
2. Block Development Officer, Okhalkanda
3. Sri Pan Singh Member Gram Panchayat, Kaunta, Block Okhalkanda, Nainital
4. Sri Dan Singh Member Gram Panchayat, Kaunta, Okhalkanda, Tehsil Dhari, District Nainital
5. Smt. Pavati Devi Member Gram Panchayat, Kaunta, Block Okhalkanda, Tehsil Dhari, District Nainital
6. Assistant Development Officer, Block Bhimtal, District Nainital.

..... Respondents

Sri R.S. Sammal, Advocate for the petitioner
Standing Counsel for the respondents.

Dated: 17.7.2006

Hon'ble Rajesh Tandon, J.

Heard Sri R.S. Sammal counsel for the petitioner and Standing counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 7.7.2006 passed by the respondent no. 1.

The petitioner is a Gaon Pradhan and is challenging the meeting for no confidence motion which is likely to be held on 28.7.2006. Earlier the petitioner has preferred a writ petition in this Court being writ petition No. 57 of 2006, in which the following directions were made on 12.5.2006:

"Following the ration of the case of Viyadhar Tiwari (supra), I am of the view that the petitioner was served with

the notice of no-confidence on 30.1.2006, while the meeting for consideration of the motion was scheduled for 6.2.2006, hence the notice was not as provided under the provisions of Section 14(1) of the U.P. Panchayat Raj Act, 1947.

In this case, the meeting for no-confidence motion was scheduled for 6.2.2006. The meeting could not be held because of the interim order dated 1.2.2006 passed by this Court. Now, a fresh meeting for no-confidence motion has to be convened by the respondent no. 1.

Accordingly, the respondent no. 1 is directed to convene the meeting of no-confidence motion as per provisions of Section 14(1) of the U.P. Panchayat Raj Act 1947 and the Rule 33-B (2) framed there-under on the same motion as held earlier.

With the above directions, the writ petition is disposed of finally."

Now a fresh notice has been given in accordance with the direction of this Court on 7th July 2006, which has been challenged by the petitioner.

The contention of the counsel for the petitioner is that Section 14 (1) and Rule 33 (B) (2) of the U.P. Panchayat Raj Act has been amended vide notification dated 4th March 2005 and as per amended provisions for removal of Pradhan, the notice will be given by the signatures of half of the members of Gaon Sabha.

Since direction has already been issued by this Court vide order dated 12.5.2006 in writ petition no. 57 of 2006 I do not find any reasons to interfere with the notice.

The alleged amendment has been incorporated by State of U.P. which was published in the gazette on 4th March 2005. Obviously, the amendment made after 9th November 2000 by State of U.P. is not applicable in State of Uttaranchal. There is nothing on record to show that State of Uttaranchal has also

amended the Panchayat Raj Act in the light of amendment made by the State of Uttar Pradesh. However, if State of Uttaranchal has adopted this amendment, the petitioner shall be at liberty to prefer a representation to the authority concerned to act according to amended provision of the Act.

Subject to the observation made above, the writ petition is dismissed. No order as to costs.

Dated: 17.7.2006 **Rajesh Tandon, J.**
*Dhyani